

EXECUTIVE SECRETARIAT**Routing Slip**

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21	ES		X		
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		SUSPENSE 1200 19 Oct			
		Date			

Remarks:

Any comments to me, please,
NLT 1200 19 Oct.

Executive Secretary
15 October 1982

Date

3637 (IG-81)

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Not referred to DOC. Waiver
applies.

NSC review completed.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

Executive Registry
82-12527

October 14, 1982

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MEMORANDUM FOR

Mr. Donald Gregg
Assistant to the Vice President
for National Security Affairs

Mr. L. Paul Bremer III
Executive Secretary
Department of State

Mr. David E. Pickford
Executive Secretary
Department of Treasury

Colonel John H. Stanford
Executive Secretary
Department of Defense

Mr. Theodore B. Olsen
Assistant Attorney General,
Office of Legal Counsel
Department of Justice

Mr. Stephen P. Shipley
Executive Assistant to the Secretary
Department of Interior

Ms. Jean Jones
Director, Executive Secretariat
Department of Commerce

NSC review completed.

Dr. Alton Keel
Associate Director for National
Security and International Affairs
Office of Management and Budget

Executive Secretary
Central Intelligence Agency

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Mr. Dennis Whitfield
Executive Assistant to the United
States Trade Representative

Mr. Edwin L. Harper
Assistant to the President for
Policy Development

Mr. Martin Feldstein
Chairman
Council of Economic Advisers

Major Dennis Stanley
Special Assistant for National
Security Affairs
Office of the Chairman, Joint Chiefs
of Staff

Mr. Gerald S. Martin
Executive Administrator
Federal Emergency Management Agency

SUBJECT: Department of Commerce Section 232 Investigation of Ferralloys (C)

Attached for your review and comment is a draft issues/discussion paper concerning the Department of Commerce Section 232 investigation of ferralloys. This paper, along with the Commerce Section 232 report, will be used as the basis for Presidential decision. (C)

Not referred to DOC. Waiver
applies.

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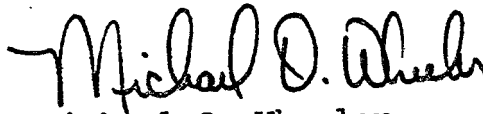
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Please provide your comments to Richard Levine of the NSC staff
(395-7351) by close of business Tuesday, October 19. (U)



Michael O. Wheeler
Staff Secretary

Attachments

cc: Edwin Meese
James Baker
Michael Deaver
Fred Fielding
Craig Fuller
Ken Duberstein

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Interagency Discussion Paper on:
DEPARTMENT OF COMMERCE SECTION 232
INVESTIGATION OF FERROALLOYS

Under Section 232 of the Trade Expansion Act of 1962, the Secretary of Commerce, in consultation with the Secretaries of Defense and other agencies, conducted an investigation to determine whether imports of thirteen types of ferroalloys threatened to impair the national security. The Department of Commerce found that two ferroalloys -- high-carbon ferrochromium and high-carbon ferromanganese -- are "being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security." This is the first positive finding under Section 232 authorities of the 1962 Act, for materials other than petroleum, although there have been fourteen investigations of various articles over the past twenty years.

In submitting his report, the Secretary of Commerce recommends that the President accept the positive Section 232 finding and take the following actions:

- Upgrade, over ten years at an annual cost of \$33 million, chromite and manganese ore, currently held in the National Defense Stockpile, into high-carbon ferrochromium (e.g., needed to make stainless steel -- there are no substitutes) and high-carbon ferromanganese (e.g., needed to make steel -- there are no substitutes); and
- Remove the tariff preference of 1.6% for high-carbon ferromanganese under the Generalized System of Preferences (GSP) (GSP treatment exempts certain developing countries from our normal tariff).

The Department of Commerce's positive finding, under Section 232, and its recommendations to the President are not supported unanimously by the relevant government agencies.

This action results in 3 separate but related issues.

- o Issues:
 1. Section 232 Finding (Tab A)
 2. Stockpile Reprocessing Program (Tab B)
 3. Generalized System of Preferences Action (Tab C)

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Discussion

Tab A - Issue 1: Should the President approve the positive Section 232 finding that imports of high-carbon ferrochromium and high-carbon ferromanganese "threaten to impair the national security?"

Basis for Supporting a Positive Finding

- The positive Section 232 finding by the Department of Commerce is justified by the facts presented in the Commerce ferroalloy report and by the statutory requirements of Section 232:
 - o A shortfall in the quantity of certain ferroalloy materials available to the U.S. during an emergency has been shown.
 - o A relationship has been established between imports and the fall in domestic ferroalloy capacity.
- A positive Section 232 finding is consistent with our free trade policy because significant import-related action would not be taken under the finding.
- If a positive determination is not made, there will be increased pressure from the Congress and the domestic industry to take actions limiting imports of ferroalloys.
- A positive Section 232 finding, coupled with the remedies proposed, will not encourage the proliferation of unwarranted requests for investigations under Section 232:
 - o The 232 procedure is a very careful and demanding one.
 - o There have been fourteen Section 232 investigations in the past twenty years; this is the first positive finding for materials other than petroleum.
 - o The ferroalloy study found that imports threaten the national security for only two of the fourteen products investigated.

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Basis for Opposing a Positive Finding

- The national security problem involving ferroalloys can be remedied without recourse to Section 232:
 - o The President has existing independent authority to upgrade the chromite and manganese ore in the stockpile.
- The positive Section 232 finding is unwise from a trade policy and national security perspective:
 - o Domestically, a positive finding on ferroalloys will encourage other basic industries to seek similar protection under the national security provision.
 - o Internationally, a positive finding would send a strong negative signal about our commitment to an open trading system.
- The recommended stockpiling and GSP actions will not significantly adjust imports of ferroalloys -- which is the remedial action called for under Section 232:
 - o The ferroalloy industry will, therefore, cite the President's finding of a threat to the national security and apply for additional and substantial import-related action (e.g., increased tariffs or quotas).
 - o If tariff or quota action is granted on ferroalloys another national security problem could be created in the specialty steel industry which depends on imported high-carbon ferrochrome and high-carbon ferromanganese.

Options

Option 1:

Approve a positive Section 232 finding.

Supported by:

Department of Defense
Department of Commerce
Federal Emergency Management Agency

Option 2:

Disapprove a positive Section 232 finding.

Supported by:

Department of State
Department of Treasury
Office of Management and Budget
Office of the United States Trade Representative
Council of Economic Advisers

Tab B - Issue 2: Should the President, institute a ten-year stockpile reprocessing program at an additional annual cost of \$33 million?

Basis for Supporting the Stockpiling Action

- Using Emergency Mobilization Preparedness Board (EMPB) industrial base guidance, a shortfall has been identified in the quantity of high-carbon ferrochromium and high-carbon ferromanganese available to the U.S. during an emergency.
- The recommended stockpile action would eliminate this shortfall over a ten-year period by helping to maintain existing domestic capacity, by giving domestic industry stockpile reprocessing work, and by increasing our stockpile.
- Even though there are higher stockpile priorities, the reprocessing program is needed to maintain existing domestic capacity, maintaining existing domestic capacity being our highest defense industrial base priority:
 - o If domestic ferroalloy capacity is not maintained, our stockpile requirement for ferroalloy will grow and ferroalloys will become a greater priority than now.
 - o For every pound of annual domestic ferroalloy production we lose, our stockpile goal must be increased by three pounds (by law, we plan our industrial mobilization requirements for a three-year war).

Basis for Opposing the Stockpiling Action

- The recommended stockpile action is put forth without placing mobilization requirements for ferroalloys in the context of overall mobilization needs or overall national defense requirements:
 - o Ferrochromium and ferromanganese are lower priority materials for National Defense Stockpile acquisition than such materials as titanium and rubber, of which substantial stockpile deficits exist.
 - o If the recommended stockpile action is followed, it would divert resources away from high priority stockpile acquisition items to ferroalloy reprocessing -- a lower priority.

Recommended Options

Option 1:

_____ Approve a ten-year stockpile reprocessing program (as part of a positive Section 232 finding).

Supported by:

Department of Commerce
Department of Defense
Federal Emergency Management Agency

Option 1A:

_____ Approve a ten-year stockpile reprocessing program (established under existing Presidential authority independent of section 232).

Supported by:

Department of State
Department of Treasury
Office of the United States Trade Representative
Council of Economic Advisers

Option 2:

_____ Disapprove the stockpile reprocessing program.

Supported by:

Office of Management and Budget

Tab C - Issue 3: Should the President approve removal of high carbon ferromanganese from the Generalized System of Preferences (GSP -- duty free treatment) as an action connected with a positive Section 232 finding?

Basis for Supporting Removal of High-Carbon Ferromanganese from the GSP in Connection with Section 232

- Removal of high carbon ferromanganese from the GSP is an appropriate response to a positive Section 232 finding for ferroalloys.
- o The President can either remove ferromanganese from GSP treatment by virtue of positive Section 232 finding or direct the interagency Trade Policy Committee to first review its removal and then order ferromanganese removal.
- o Removal of ferromanganese from the GSP will help maintain U.S. ferromanganese production capacity and the necessary trained workforce.

Basis for Opposing Removal of Ferromanganese from the GSP in Connection with Section 232 Finding

- GSP treatment is normally considered within the interagency Trade Policy Committee (TPC). The TPC reviews the proposed GSP action in terms of its impact on relevant domestic industry and other factors.
- o Making a decision to remove ferromanganese without TPC review first would be a circumvention of the Executive Order that established TPC review of GSP treatment and might invite legal action.
- o The TPC is already reviewing GSP treatment for ferromanganese from Brazil. This review could be expanded to include all imported ferromanganese from all GSP countries.

Recommended Options

Option 1:

As part of a positive Section 232 finding, remove high-carbon ferromanganese from the list of products eligible for GSP treatment.

Supported by:

Department of Commerce

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Option 2:

Through the Trade Policy Committee framework, review the desirability of continued GSP treatment for high-carbon ferromanganese.

Supported by:

Department of State
Office of the U.S. Trade Representative